

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Crim. No. 04-
	:	
v.	:	15 U.S.C. §§ 78j(b), 78m(d),
	:	78n(e) and 78ff; 17 C.F.R. §§ 240.10b-5,
ALFRED S. TEO, SR.,	:	240.12b-20, 240.13d and 240.14e-3; and
JOHN D. REIER, and	:	18 U.S.C. §§ 1505 and 2
MITCHELL LESTER SACKS	:	

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting in Newark, charges:

COUNT 1

(Securities Fraud: Scheme to Conceal TEO's Ownership of Musicland Stock)

The Defendants

1. At all times relevant to this Indictment, unless otherwise indicated:

a. Defendant **ALFRED S. TEO, Sr., (“TEO”)** was a resident of Kinnelon, New Jersey and Fisher Island, Florida. **TEO** was also (1) the largest shareholder of Musicland Stores Corporation (“Musicland”) common stock; (2) a director, audit committee member, and a large shareholder of Cirrus Logic, Inc. (“Cirrus”), a publicly held company; and (3) the Chairman of numerous privately held companies, including Alpha Industries, Inc. (“Alpha Industries”), Alpha Technologies, Inc. (“Alpha Technologies”), Sigma Plastics Group, and Lambda Financial Service Corp. (“Lambda”). These privately held corporations, among other things, produced and sold plastic products.

b. Defendant **JOHN D. REIER** (“**REIER**”) was the Chief Financial Officer (“CFO”) of Alpha Industries and a resident of Montville, New Jersey. **REIER** had known **TEO** since at least in or about 1991, when he began working for **TEO** at Alpha Industries.

c. Defendant **MITCHELL LESTER SACKS** (“**MITCHELL SACKS**”) was a resident of Demarest, New Jersey. In or about January 2001, **TEO** and **MITCHELL SACKS** began forming a hedge fund, which they operated together from the offices of Alpha Industries in New Jersey until the hedge fund’s dissolution in or about July 2002.

The Relevant Entities

2. At all times relevant to this Indictment:

a. Musicland Stores Corporation (“Musicland”) was a corporation organized under the laws of the State of Delaware with its headquarters in Minneapolis, Minnesota. Through its numerous mall stores, including “Sam Goody,” Musicland was a specialty retailer of music, video, books, computer software, and video games. Musicland’s common stock was registered with the U.S. Securities and Exchange Commission (“SEC”) pursuant to Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and traded on the New York Stock Exchange (“NYSE”).

b. Best Buy Co., Inc. (“Best Buy”) was a corporation organized under the laws of the State of Minnesota with its headquarters in Eden Prairie, Minnesota. Best Buy and its subsidiaries operated approximately 700 retail stores, making it a leading retailer of consumer electronics, entertainment software, personal computers, and appliances. Best Buy was a publicly traded company whose stock also traded on the NYSE. On or about December 7, 2000, Best Buy publicly announced that it was acquiring Musicland through an all cash tender offer for

all of Musicland's stock (the "Musicland Announcement"). A tender offer was an offer made directly to a company's shareholders to buy their shares, generally at a premium above the then current market price. On or about January 31, 2001, Best Buy completed its purchase of all of Musicland's stock, thereby acquiring Musicland.

c. The M.A.A.A. Trust was a trust that defendant **TEO** established in or about December 1992 purportedly for the benefit of his four children. Prior to on or about April 18, 1998, defendant **TEO**'s wife and her sister, T.S.H., were co-trustees for the trust. From on or about April 18, 1998 to at least on or about January 25, 2001, T.S.H. was the sole trustee of the MAAA Trust.

The SEC and the Securities Laws

3. At all times relevant to this Indictment:

a. The SEC was an independent agency of the United States which was charged by law with the duty of protecting investors by regulating and monitoring, among other things, the purchase and sale of publicly traded securities. Among the national securities markets regulated by the SEC were the NYSE and the Nasdaq National Market System ("NASDAQ").

b. The anti-fraud provisions of the federal securities laws, including Rule 10b-5 under the Exchange Act, codified at Title 17, Code of Federal Regulations, Section 240.10b-5, prohibited fraudulent activities in connection with the buying or selling of securities, including "insider trading." Insider trading was generally defined as trading a security using material, nonpublic information about a public company in violation of a known duty. Federal securities laws also prohibited "insiders" from providing or "tipping" such information to individuals, called "tippees," with the intent to assist those persons in profiting from the inside information.

c. The Williams Act, which related to tender offers and “takeover bids,” provided for full and fair disclosure concerning actual and potential tender offers. Specifically, pursuant to Rule 14e-3 under the Exchange Act, codified at Title 17, Code of Federal Regulations, Section 240.14e-3, once an offeror had taken a substantial step to commence a tender offer, any person in possession of material, non-public information relating to such tender offer was prohibited from purchasing or selling the securities of the target company if the person knew or had reason to know that the information was acquired, directly or indirectly, from the offeror, the target, or any person acting on behalf of the offeror or target.

d. Pursuant to Section 13(d) of the Exchange Act, any person or entity who beneficially owned, directly or indirectly, more than five percent of a class of equity security registered pursuant to Section 12(b) of the Exchange Act was required to make certain disclosures by filing Schedules 13D, and any necessary amendment thereto, with the SEC. Among other things, Schedules 13D required disclosure of: (1) the identity of the acquirer of the security, including beneficial owners; (2) a description of the purpose(s) of the acquisition, including any plans to affect the issuer’s Board of Directors or cause an extraordinary corporate transaction, such as a merger or reorganization; and (3) the interest of all persons making the filing, including those acting together as a group.

e. Pursuant to Section 16(a) of the Exchange Act, any person who was the beneficial owner of more than ten percent of a class of a registered equity security was required to file a statement with the SEC within ten days of acquiring such ownership and within ten days of each calendar month thereafter during which there was a change in such ownership. Among the disclosure documents required to be filed with the SEC were: (1) Form 3 for initial

statements of beneficial ownership; (2) Form 4 for statements of changes in beneficial ownership; (3) and Form 5 at the end of each year in which the filing person continued to have beneficial ownership of at least ten percent of equity shares.

f. In addition to the information expressly required to be disclosed by Sections 13(d) and 16(a) of the Exchange Act, Rule 12b-20 under the Exchange Act, codified at Title 17, Code of Federal Regulations, Section 240.12b-20, required disclosure of such additional information as was necessary to ensure that the required statements were not misleading.

**Musicland's Shareholder Rights Plan and
TEO's Beneficial Ownership of Musicland Stock**

4. In or about 1995, Musicland instituted a shareholder rights plan, commonly referred to as a "poison pill." Shareholder rights plans were created to protect companies from hostile takeovers which had become prevalent before the plans' creation. Musicland's shareholder rights plan provided that a shareholder, either alone or in combination with a group, could own no more than 17.5% of Musicland's outstanding stock. If a shareholder owned more than 17.5% of Musicland's stock, then Musicland could dilute the offending shareholder's ownership down to 1%. From at least in or about August 1997, **TEO** was aware of Musicland's shareholder rights plan, and its 17.5% limitation.

5. From in or about September 1996 until on or about February 5, 1997, **TEO** acquired control of approximately 1,800,000 shares of Musicland's common stock, or approximately 5.25% of the outstanding shares, jointly with his wife and as the beneficial owner of Musicland stock held in the name of the MAAA Trust. As a result, on or about February 14, 1997, **TEO** filed a Schedule 13D with the SEC acknowledging **TEO's** beneficial ownership of more than

5% of Musicland's common stock. The Schedule 13D stated that, among other things, **TEO** had no plans or proposals which related to or would result in: (a) an extraordinary corporate transaction, such as a merger, reorganization, or liquidation; (b) any change in the present board of directors or management of Musicland, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board; and/or (c) any other material change in Musicland's business or corporate structure. **TEO** repeated the representations set forth above in nine subsequent Amendments to the Schedule 13D filed on or about July 24, 1997 through on or about May 10, 1999, all of which were filed with the SEC and were publicly available.

6. On or about August 27, 1997, **TEO** filed a Form 3 with the SEC, stating for the first time that **TEO** owned more than 10 % of Musicland Stock, jointly with his wife and as the beneficial owner of Musicland shares held in accounts of Alpha Industries, Alpha Technologies, and the MAAA Trust. From in or about August 1997 through on or about May 10, 1999, **TEO** filed a Form 4 with the SEC each time that his beneficial ownership increased by at least one percent of Musicland's outstanding common stock.

7. By on or about July 30, 1998, **TEO** beneficially owned approximately 5,986,300 shares of Musicland common stock, or approximately 16.92% of the outstanding shares, jointly with his wife, and also in the names of others, including the MAAA Trust, Alpha Industries, Alpha Technologies, and Lambda.

**The Scheme to Defraud Regarding
TEO's Beneficial Ownership of Musicland Stock**

8. From at least on or about April 18, 1998 through on or about December 7, 2000, defendant **ALFRED S. TEO, Sr.** knowingly and willfully devised a scheme to defraud Musicland, its shareholders, other members of the investing public, and the SEC in connection with the purchase and sale of Musicland securities, by obtaining beneficial ownership of more than 17.5% of the outstanding shares of Musicland stock, and concealing the true extent of his beneficial ownership of that stock.

Means and Methods of the Scheme to Defraud

9. Among the means and methods used by defendant **TEO** to carry out the scheme described above were those set forth in Paragraphs 10 through 22 below.

10. On or about April 18, 1998, in order to conceal his continued beneficial ownership of the MAAA Trust's Musicland stock and thereby avoid the SEC's disclosure requirements, **TEO** caused his wife to resign as trustee of the MAAA Trust and caused T.S.H., **TEO**'s sister-in-law and the sole remaining trustee of the MAAA Trust, to execute a document purportedly revoking all investment power previously granted to **TEO** regarding the MAAA Trust.

11. On or about July 29, 1998, **TEO** caused a Form 4 to be filed, which for the first time intentionally omitted **TEO**'s beneficial ownership of Musicland shares held in the account of the MAAA Trust.

12. On or about July 30, 1998, **TEO** caused Amendment No. 7 to the February 14, 1997 Schedule 13D to be filed. Amendment No. 7 falsely stated:

“On April 18, 1998, [**TEO**'s wife] ceased to be a trustee of the [MAAA] Trust and Alfred **TEO** ceased to have investment powers with respect to the Trust. Accordingly, the filing persons [**TEO** and **TEO**'s wife] disclaim beneficial ownership of shares of the Issuer [Musicland] held by the [MAAA] Trust.”

In fact, from at least April 18, 1998 until in or about January 2001, **TEO** continued to have investment and voting power over the Musicland stock in the MAAA Trust's name, and continued to beneficially own these shares.

13. On or about the following dates, **TEO** caused the following filings to be made with the SEC which falsely stated that **TEO** and his wife could trade and vote only the Musicland stock owned jointly by them and those shares owned by Alpha Industries, Alpha Technologies, Lambda and Great Eastern, and which omitted to state that **TEO** beneficially owned the Musicland shares held by the MAAA Trust:

DATE	FILING WITH THE SEC
August 4, 1998	Form 4 for July 1998
September 3, 1998	Amendment No. 8 to the February 14, 1997 Schedule 13D
September 3, 1998	Form 4 for August 1998
May 10, 1999	Amendment No. 9 to the February 14, 1997 Schedule 13D
May 10, 1999	Form 4 for September 1998 (filed late)
May 10, 1999	Form 4 for March 1998 (filed late)
May 10, 1999	Form 4 for April 1998

14. After on or about May 10, 1999, although he obtained beneficial ownership of additional shares of Musicland stock, **TEO** did not file any amendments to his and his wife's Schedule 13D concerning Musicland stock. Therefore, after on or about May 10, 1999, **TEO** failed to disclose that: (a) he continued to exercise investment and voting power over the Musicland stock held by the MAAA Trust; (b) he had caused to be acquired approximately 2,148,500 additional shares of Musicland stock in the MAAA Trust's name; (c) he had caused to

be acquired approximately 2,114,745 additional shares of Musicland stock in his own name and in other nominee accounts **TEO** controlled; (d) he had plans to change the membership of Musicland's Board of Directors and, among other things, had asked Musicland to put certain persons, including himself, on its Board of Directors; and (e) he had plans to make, and had in fact made, several attempts to initiate an extraordinary corporate transaction regarding Musicland, including an attempt to convert Musicland into a private company through a leveraged buyout, and had met with at least three different investment banking firms or venture capitalists in the process.

15. On or about February 9, 2000, **TEO** caused T.S.H. to sign and file, on behalf of the MAAA Trust, a Schedule 13D containing materially false information. Among other things, T.S.H. falsely certified that she had the sole power to vote and dispose of the shares of Musicland stock held by the MAAA Trust, and that no arrangements existed between the MAAA Trust and **TEO** concerning Musicland securities. Contrary to those statements, however, **TEO** exercised voting and investment power over the MAAA Trust's Musicland stock.

16. On or about March 10, 2000, **TEO** caused T.S.H. to sign and file, on behalf of the MAAA Trust, Amendment No. 1 to the February 9, 2000 Schedule 13D. The Amendment contained the same materially false information as the February 9, 2000 Schedule 13D.

17. After on or about March 10, 2000, T.S.H. and the MAAA Trust failed to file any amendments to its February 9, 2000 Schedule 13D concerning the MAAA Trust's ownership of Musicland stock. Therefore, T.S.H. and the MAAA Trust failed to disclose that, among other things, **TEO** had investment and voting powers over the MAAA Trust's Musicland stock, and

that **TEO** directed the MAAA Trust to purchase approximately 668,600 additional shares of Musicland stock.

18. From on or about July 30, 1998 through on or about December 6, 2000, contrary to the representations of **TEO** and T.S.H. that **TEO** no longer exercised investment and voting power over Musicland shares held by the MAAA Trust, **TEO** caused the placement of approximately 459 trades in Musicland stock and thereby causing approximately 3,397,000 shares of Musicland stock to be purchased for accounts in the name of the MAAA Trust.

19. From on or about July 30, 1998 through on or about December 6, 2000, **TEO** caused a total of approximately 1,741,820 shares of Musicland stock to be purchased in his name and in the names of nominees other than the MAAA Trust.

20. By on or about December 7, 2000, before the Musicland Announcement on the same day in which Best Buy publicly announced that it was making a tender offer for all of Musicland's stock, **TEO** beneficially owned a total of approximately 11,545,120 shares, or approximately 36 % of all outstanding Musicland stock. Thus, on or about December 7, 2000, **TEO** owned approximately 5,928,152 shares of Musicland stock in excess of Musicland's shareholder rights plan threshold of 17.5%.

21. On or about December 7, 2000, after the Musicland Announcement, **TEO** caused approximately 1,668,700 shares of Musicland stock to be sold out of an account in the name of the MAAA Trust. On or about December 8, 2000, **TEO** caused T.S.H. to execute a document authorizing the transfer of \$5,000,000 from the MAAA Trust's account to a bank account controlled by **TEO**.

22. From on or about December 7, 2000, after the Musicland Announcement, through on or about January 25, 2001, **TEO** sold or tendered all of the approximately 11,545,120 shares of Musicland stock that he beneficially owned. As a result, **TEO** received more than \$10,000,000 in illicit profits from the sale and/or tender of the approximately 5,928,152 shares of Musicland stock he owned in excess of Musicland's 17.5% shareholder rights plan threshold.

23. From in or about July 30, 1998, through on or about December 6, 2000, in the District of New Jersey, and elsewhere, the defendant

ALFRED S. TEO, SR.,

and others knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, did use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of Musicland stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon Musicland and its shareholders, and other members of the investing public, in connection with the purchase and sale of Musicland securities, as set forth above.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5.

COUNT 2

(Securities Fraud: February 9, 2000 False 13D Filing)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about February 9, 2000, as set forth in Paragraph 15 of Count 1, in the District of New Jersey, and elsewhere, the defendant

ALFRED S. TEO, SR.,

did knowingly and willfully, directly and indirectly, make and cause to be made statements in documents required to be filed with the SEC under the federal securities laws, which statements were false and misleading with respect to material facts, and omitted to make a statement containing the information required by Schedule 13D.

In violation of Title 15, United State Code, Sections 78j(b), 78m(d) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.12b-20, and 240.13d-1.

COUNT 3

(Securities Fraud: March 10, 2000 False 13D Filing)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about March 10, 2000, a set forth in Paragraph 16 of Count 1, in the District of New Jersey, and elsewhere, the defendant

ALFRED S. TEO, SR.,

did knowingly and willfully, directly and indirectly, make and cause to be made statements in documents required to be filed with the SEC under the federal securities laws, which statements were false and misleading with respect to material facts, and omitted to make a statement containing the information required by Schedule 13D.

In violation of Title 15, United State Code, Sections 78j(b), 78m(d) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5, 240.12b-20, and 240.13d-2.

COUNTS 4 - 6

(Securities Fraud: Insider Trading in Musicland Stock)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

Background

2. From at least on or about January 1, 1999, to on or about December 6, 2000, **TEO** was Musicland's largest shareholder, directly or beneficially owning between approximately 7,807,475 (22%) and 11,545,120 (36%) of the company's outstanding shares. Because of his large stock ownership, **TEO** had access to Musicland's management as well as certain corporate information.

3. From at least in or about January 1999, to in or about December 2000, **TEO** used his position as Musicland's largest shareholder to attempt to effect a change to Musicland's Board of Directors, to restructure the corporate organization of Musicland, and to obtain confidential information concerning Musicland.

4. As a result of one of **TEO**'s attempts to restructure Musicland and in contemplation of **TEO** being provided confidential information concerning Musicland, including detailed non-public multi-year revenue projections, on or about March 7, 2000, **TEO** signed a Confidentiality and Standstill Agreement ("March 7th Confidentiality Agreement"). The March 7th Confidentiality Agreement forbade **TEO** from, among other things, disclosing Musicland's confidential information to prohibited persons.

Best Buy Negotiated a Tender Offer for Musicland

5. In or about July 2000, Best Buy and Musicland began to explore the possibility of combining the businesses of the two companies through Best Buy's acquisition of Musicland. By on or about August 15, 2000, Musicland's Chief Executive Officer ("CEO") and Best Buy's CEO discussed a preliminary price range for Best Buy's acquisition of Musicland's stock. Later during the negotiations, due to Teo's large holdings of Musicland stock, Best Buy conditioned its willingness to go forward with the tender offer on Musicland's ability to obtain **TEO**'s support for the offer.

TEO Learned Material, Non-Public Information about Best Buy's Tender Offer for Musicland

6. On or about August 31, 2000, Musicland's CFO and Musicland's General Counsel placed a telephone call to **TEO**. During this phone call, **TEO** learned material, non-public information about Musicland, including that Musicland had been looking into a number of strategic plans to enhance shareholder value in the immediate future which included the possible sale of Musicland to a third party. During the phone call, Musicland's CFO also stated, in substance and in part, to **TEO** that this information was being provided to **TEO** pursuant to the March 7, 2000 Confidentiality Agreement, and cautioned **TEO** not to disclose this information any other parties.

7. On or about September 14, 2000, **TEO** and **REIER** met with an investment banking firm to discuss the possibility of purchasing Musicland from its shareholders and making it

privately owned through a leveraged buyout. At this meeting, **TEO** revealed the material, non-public information to the investment bankers and others that he had learned during the conversation described in the preceding Paragraph, including the confidential information that an undisclosed party was then negotiating the acquisition of Musicland.

8. In or about early November 2000, Musicland's CEO placed a telephone call to **TEO** while **TEO** was in Fisher Island, Florida, and informed **TEO**, in substance and in part, that a third party was going to purchase Musicland in a tender offer. Musicland's CEO also informed **TEO**, in substance and in part, that the transaction was moving forward rapidly and that Musicland's CFO would meet **TEO** in his New Jersey office to obtain **TEO**'s written consent to the tender offer. During the conversation, Musicland's CEO reminded **TEO** of his duty to keep this information confidential.

9. On or about November 8, 2000, Musicland's CFO met with **TEO** at **TEO**'s office in New Jersey. A Musicland attorney and **TEO**'s attorney participated in this meeting by telephone. At the meeting, Musicland's CFO and its attorney discussed with **TEO** Best Buy's tender offer and gave **TEO** proposed shareholder support agreements for **TEO**, his wife, and T.S.H. on behalf of the MAAA Trust, to sign. The shareholder support agreements ("SSAs") were documents in which the persons or entities agreed to support Best Buy's tender offer by, among other things, agreeing to sell their shares at an agreed upon price. Musicland's attorney reminded **TEO** that the information regarding the sale was confidential.

10. By on or about November 9, 2000, **TEO**: signed his and his wife's name on their SSA; signed T.S.H.'s name on the MAAA Trust's SSA; and returned both SSAs to Musicland.

11. On or about November 11, 2000, Musicland's CEO informed **TEO**, in substance and in part, that Best Buy's tender offer had been delayed and that the delay would likely last two to three weeks.

12. On or about November 21, 2000, **TEO** arranged a meeting for later that same day with the investment banking firm that he had met with on or about September 14, 2000. At the meeting, **TEO** stated, in substance and in part, to the investment bankers that Best Buy would be making a tender offer for Musicland shares at \$12.55 per share and that the tender offer was then scheduled for early to mid-December 2000. Subsequently, on or about November 22, 2000, **TEO** entered into an agreement with the investment banking firm to represent him in selling his Musicland stock.

13. On or about December 1, 2000, Musicland's CEO placed a telephone call to **TEO** at **TEO**'s home in Fisher Island, Florida. Musicland's CEO informed **TEO**, in substance and in part, that Best Buy's tender offer was going forward; that no terms had changed; and that the tender offer could be announced as early as December 7, 2000. Musicland's CEO also stated, in substance and in part, that he would send Musicland's CFO to meet with **TEO** to obtain another signed set of SSAs from **TEO** and the MAAA Trust. The previous SSAs had been returned to **TEO** at his request when he had learned that the tender offer had been delayed until December.

14. On or about December 5, 2000, Musicland's CFO met **TEO** at **TEO**'s office in New Jersey, and informed him, in substance and in part, that Best Buy was ready to proceed with the tender offer, and that the terms of Best Buy's tender offer remained unchanged. Musicland's attorney attended the meeting by telephone. Musicland's CFO and Musicland's attorney reminded **TEO** that Best Buy's tender offer remained a confidential matter. Musicland's CFO

also provided **TEO** two new SSAs for **TEO** and his wife and for the MAAA Trust and informed **TEO** that Musicland needed the signed SSAs by the following day. **TEO** signed the SSA for himself and for his wife and returned it to Musicland's CFO. **TEO** stated, in substance and in part, that he would forward the MAAA Trust SSA after he obtained T.S.H.'s signature.

15. Later that same day, on or about December 5, 2000, **TEO** signed T.S.H.'s name to the SSA for the MAAA Trust and forwarded it by overnight mail to Musicland.

TEO's Illicit Trading and Tipping

16. On or about November 13, 2000, while in possession of material, non-public information about Best Buy's tender offer for Musicland common stock, **TEO** telephoned his stockbroker at Tucker Anthony, Inc. ("Tucker Anthony") and directed the stockbroker to purchase approximately 25,000 shares of Musicland common stock at approximately \$7.50 per share for **TEO**'s account.

17. On or about December 6, 2000, while in possession of material, non-public information about Best Buy's tender offer for Musicland common stock, **TEO** placed two market orders over the telephone to buy approximately 10,000 shares of Musicland stock in each of two Solomon Smith Barney, Inc. ("SSB") brokerage accounts in the names of two of his sons, for a total of approximately 20,000 shares. On or about the same date, SSB made the requested purchases at approximately \$9.00 per share.

18. In addition to his own illicit trading, **TEO**, from on or about August 31, 2000 to on or about December 6, 2000, while in possession of material, non-public information concerning a tender offer for Musicland's stock, defendant **TEO** tipped a number of his friends, business associates and family members by encouraging them to hold their Musicland stock and to

purchase additional shares. The friends, business associates, and family members included **REIER**, P.S., D.R., R.H., L.R., C.F., M.L., and T.S.H.

The Public Announcement

19. On or about December 7, 2000, prior to the opening of trading at the NYSE, Best Buy and Musicland issued separate press releases announcing that Best Buy was making an all-cash tender offer for Musicland at \$12.55 per share (“December 7th Press Releases”). Musicland’s stock price reached a high on December 7, 2000 of approximately \$12.4375 per share.

20. On or about December 7, 2000, after the issuance of the December 7th Press Releases, **TEO** caused to be sold the approximately 25,000 Musicland shares he had bought on or about November 13, 2000 which were in his Tucker Anthony account. **TEO** also caused to be sold the approximately 20,000 Musicland shares he had purchased on or about December 6, 2000 and held in his sons’ SSB accounts. Through these sales, **TEO** reaped illicit profits of approximately \$185,275.

21. On or about the following dates, in the District of New Jersey and elsewhere, defendant

ALFRED S. TEO, SR.,

knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails, and the facilities of national securities exchanges, did use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of Musicland stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue

statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon Musicland and its shareholders, and other members of the investing public, in connection with the following purchases of Musicland securities:

<u>COUNT</u>	<u>DATE</u>	<u>ACT</u>
4	November 13, 2000	Purchase of 25,000 shares of Musicland common stock for TEO's account at Tucker Anthony
5	December 6, 2000	Purchase of 10,000 shares of Musicland common stock for TEO's son's account at SSB
6	December 6, 2000	Purchase of 10,000 shares of Musicland common stock for TEO's son's account at SSB

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5.

COUNTS 7 - 9

(Securities Fraud: TEO's Fraudulent Trading in Connection with Best Buy's Tender Offer)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 and Paragraphs 2 through 20 of Counts 4 - 6 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about the following dates, in the District of New Jersey and elsewhere,
defendant

ALFRED S. TEO, SR.,

knowingly and willfully engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer in contravention of Title 17, Code of Federal Regulations, Section 240.14e-3, that is: after the offering person, Best Buy, had taken substantial steps to commence its tender offer for the issuer, Musicland, defendant **TEO**, while in possession of material information relating to such tender offer, which information he knew and had reason to know was (a) non-public, and (b) had been acquired directly and indirectly from the offering person, the issuer, and persons acting on behalf of the offering person and the issuer, did purchase and sell and caused to be purchased and sold Musicland common stock, without such information and its source being publicly disclosed within a reasonable time prior to those purchases and sales:

<u>COUNT</u>	<u>DATE</u>	<u>ACT</u>
7	November 13, 2000	Purchase of 25,000 shares of Musicland common stock for TEO's account at Tucker Anthony
8	December 6, 2000	Purchase of 10,000 shares of Musicland common stock for TEO's son's account at SSB

9	December 6, 2000	Purchase of 10,000 shares of Musicland common stock for TEO's son's account at SSB
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In violation of Title 15, United States Code, Sections 78n(e) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.14e-3.

COUNTS 10 - 17

(Securities Fraud: TEO Tipped Others Regarding Musicland)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 and Paragraphs 2 through 20 of Counts 4 - 6 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. From on or about August 31, 2000 to on or about December 6, 2000, while in possession of material, non-public information concerning a tender offer for Musicland's stock, defendant **TEO** tipped a number of his friends, business associates and family members by encouraging them to hold their Musicland stock and to purchase additional shares.

3. On or about the following dates, in the District of New Jersey and elsewhere, defendant

ALFRED S. TEO, SR.,

knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did himself and did aid, abet, counsel, induce, and cause others to, use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of Musicland stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon Musicland

and its shareholders, and other members of the investing public, in connection with the following purchases of Musicland securities:

<u>COUNT</u>	<u>TIPPEE</u>	<u>ACT</u>
10	JOHN D. REIER	From on or about October 31, 2000 through on or about November 16, 2000, REIER purchased a total of 20,000 shares of Musicland common stock. REIER sold all 20,000 shares on December 7, 2000, reaping illicit profits of approximately \$89,962.
11	P.S.	From on or about November 3, 2000 through on or about November 17, 2000, P.S. caused a total of 130,000 shares of Musicland common stock to be purchased in his accounts. After the December 7 th Announcements, P.S. caused all 130,000 shares to be sold or tendered, reaping illicit profits of approximately \$593,747.
12	D.R.	From on or about October 30, 2000 through on or about December 4, 2000, D.R. purchased a total of 74,800 shares of Musicland common stock in his accounts, as well as 24,000 shares in the account of his business partner, J.R. On December 7, 2000, D.R. caused all 130,000 shares to be sold, reaping illicit profits of approximately \$463,112.
13	R.H.	On or about November 14, 2000, R.H. purchased a total of 15,000 shares of Musicland common stock in his account. On December 7, 2000, R.H. sold all 15,000 shares, reaping illicit profits of approximately \$71,031.
14	L.R.	On or about December 4, 2000, L.R. purchased a total of 20,000 shares of Musicland common stock in his account. On December 7, 2000, L.R. sold all 20,000 shares, reaping illicit profits of approximately \$107,500.
15	C.F.	On or about November 6, 2000, C.F. purchased a total of 1,000 shares of Musicland common stock in his account. On December 7, 2000, C.F. sold all 1,000 shares, reaping illicit profits of approximately \$4,187.
16	M.L.	On or about November 9, 2000, M.L. purchased a total of 500 shares of Musicland common stock in his account. On December 7, 2000, M.L. sold all 500 shares, reaping illicit profits of approximately \$1,969.

17	T.S.H.	On or about November 6, 2000 and on or about December 6, 2000, T.S.H. caused a total of 1,000 shares of Musicland common stock to be purchased in her account. On December 7, 2000, T.S.H. caused all 1,000 shares to be sold, reaping illicit profits of approximately \$4,287.
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In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a); Title 17, Code of Federal Regulations, Section 240.10b-5; and Title 18, United States Code, Section 2.

COUNTS 18 - 25

(Securities Fraud: TEO Tipped Others in Connection with Best Buy's Tender Offer)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1; Paragraphs 2 through 20 of Counts 4 - 6; and Paragraph 2 of Counts 10-17 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about the following dates, in the District of New Jersey and elsewhere,
defendant

ALFRED S. TEO, SR.,

knowingly and willfully engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer in contravention of Title 17, Code of Federal Regulations, Section 240.14e-3, that is: after the offering person, Best Buy, had taken substantial steps to commence its tender offer for the issuer, Musicland, defendant **TEO**, while in possession of material information relating to such tender offer, which information he knew and had reason to know was (a) non-public, and (b) had been acquired directly and indirectly from the offering person, the issuer, and persons acting on behalf of the offering person and the issuer, did purchase and sell and caused to be purchased and sold Musicland common stock, without such information and its source being publicly disclosed within a reasonable time prior to those purchases and sales:

<u>COUNT</u>	<u>TIPPEE</u>	<u>ACT</u>
18	JOHN D. REIER	From on or about October 31, 2000 through on or about November 16, 2000, REIER purchased a total of 20,000 shares of Musicland common stock. REIER sold all 20,000 shares on December 7, 2000, reaping illicit profits of approximately \$89,962.

19	P.S.	From on or about November 3, 2000 through on or about November 17, 2000, P.S. caused a total of 130,000 shares of Musicland common stock to be purchased in his accounts. After the December 7 th Announcements, P.S. caused all 130,000 shares to be sold or tendered, reaping illicit profits of approximately \$593,747
20	D.R.	From on or about October 30, 2000 through on or about December 4, 2000, D.R. purchased a total of 74,800 shares of Musicland common stock in his accounts, as well as 24,000 shares in the account of his business partner, J.R. On December 7, 2000, D.R. caused all 130,000 shares to be sold, reaping illicit profits of approximately \$463,112
21	R.H.	On or about November 14, 2000, R.H. purchased a total of 15,000 shares of Musicland common stock in his account. On December 7, 2000, R.H. sold all 15,000 shares, reaping illicit profits of approximately \$71,031
22	L.R.	On or about December 4, 2000, L.R. purchased a total of 20,000 shares of Musicland common stock in his account. On December 7, 2000, L.R. sold all 20,000 shares, reaping illicit profits of approximately \$107,500
23	C.F.	On or about November 6, 2000, C.F. purchased a total of 1,000 shares of Musicland common stock in his account. On December 7, 2000, C.F. sold all 1,000 shares, reaping illicit profits of approximately \$4,187
24	M.L.	On or about November 9, 2000, M.L. purchased a total of 500 shares of Musicland common stock in his account. On December 7, 2000, M.L. sold all 500 shares, reaping illicit profits of approximately \$1,969
25	T.S.H.	On or about November 6, 2000 and on or about December 6, 2000, T.S.H. caused a total of 1,000 shares of Musicland common stock to be purchased in her account. On December 7, 2000, T.S.H. caused all 1,000 shares to be sold, reaping illicit profits of approximately \$4,287.

In violation of Title 15, United States Code, Sections 78n(e) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.14e-3.

COUNTS 26 - 33

(Securities Fraud: REIER's Insider Trading in Musicland Stock)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 and Paragraphs 2 through 20 of Counts 4 - 6 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about September 14, 2000, **TEO** disclosed material, non-public information regarding a potential tender offer for Musicland to **REIER**, the CFO of Alpha Industries, at a meeting with investment bankers concerning Musicland.

3. In or about late October 2000, **TEO** disclosed material, non-public information concerning a tender offer for Musicland's stock to **REIER**.

4. From on or about October 31, 2000 through on or about November 16, 2000, **REIER** purchased a total of approximately 20,000 shares of Musicland common stock in both his Charles Schwab & Co., Inc. ("Schwab") account and his wife's Schwab account, at an average price of \$7.83 per share.

5. On or about December 7, 2000, after the issuance of the December 7th Press Releases, **REIER** sold all of the approximately 20,000 shares of his Musicland common stock at prices between approximately \$12.13 and \$12.38 per share, thereby reaping illicit profits of approximately \$89,962.

6. On or about the following dates, in the District of New Jersey and elsewhere,
defendant

JOHN D. REIER,

knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did himself and did aid, abet, counsel, induce, and cause others to, use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of Musicland stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon Musicland and its shareholders, and other members of the investing public, in connection with the following purchases of Musicland securities:

<u>COUNT</u>	<u>DATE</u>	<u>ACT</u>
26	October 31, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab
27	November 1, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab
28	November 2, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab
29	November 8, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab
30	November 9, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab

31	November 10, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
32	November 13, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
33	November 16, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's wife's account at Schwab

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18 United States Code, Section 2.

COUNTS 34 - 41

(Securities Fraud: REIER's Fraudulent Trading in Connection with Best Buy's Tender Offer)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1; Paragraphs 2 through 20 of Counts 4 - 6; and Paragraphs 2 through 5 of Counts 26 - 33 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about the following dates, in the District of New Jersey and elsewhere,
defendant

JOHN D. REIER,

knowingly and willfully engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer in contravention of Title 17, Code of Federal Regulations, Section 240.14e-3, that is: after the offering person, Best Buy, had taken substantial steps to commence its tender offer for the issuer, Musicland, defendant **REIER**, while in possession of material information relating to such tender offer, which information he knew and had reason to know was (a) non-public, and (b) had been acquired directly and indirectly from the offering person, the issuer, and persons acting on behalf of the offering person and the issuer, did purchase and sell and caused to be purchased and sold Musicland common stock, without such information and its source being publicly disclosed within a reasonable time prior to those purchases and sales:

<u>COUNT</u>	<u>DATE</u>	<u>ACT</u>
34	October 31, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab
35	November 1, 2000	Purchase of 2,500 shares of Musicland common stock for REIER's account at Schwab

36	November 2, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
37	November 8, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
38	November 9, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
39	November 10, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
40	November 13, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's account at Schwab
41	November 16, 2000	Purchase of 2,500 shares of Musicland common stock for REIER 's wife's account at Schwab

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.14e-3.

COUNT 42

(Obstruction of Justice)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1; Paragraphs 2 through 20 of Counts 4 - 6; and Paragraph 2 of Counts 10 - 17 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. In or about March 2001, the SEC commenced an investigation into trading in Musicland securities that had occurred in advance of the Musicland Announcement, including the trades made by **TEO** and his tippees. The SEC investigation focused on whether such trades were made in violation of federal securities laws and regulations that prohibit trading on the basis of material, non-public information. It was material to the SEC investigation to determine, among other things, what was communicated to **TEO** about Musicland from on or about August 31, 2000 through on or about December 6, 2000, and the reasons for **TEO**'s purchases of Musicland stock on or about November 13, 2000 and on or about December 6, 2000.

3. On or about May 21, 2001, after learning of the SEC investigation, **TEO**, accompanied by his lawyers, provided sworn testimony to the SEC pursuant to an investigative subpoena. During his testimony, **TEO** produced to the SEC a one-page document entitled "Musicland Memorandum: (Chronology of Events)" (the "Chronology"), and the document was made part of the official record of the proceedings. **TEO** testified that he created the Chronology along with his brother-in-law, S.L., who was acting as his attorney at the time, at an office building **TEO** owned in Little Falls, New Jersey. **TEO** intentionally submitted the Chronology to the SEC, and had it made part of the record, knowing that it contained false and

misleading information regarding events material to the SEC investigation into **TEO's** Musicland trades.

4. On or about May 21, 2001, in the District of New Jersey and elsewhere, the defendant

ALFRED S. TEO, SR.,

and others known and unknown, did corruptly influence, obstruct and impede, and endeavor to influence, obstruct, and impede, the due and proper administration of the law under which a pending proceeding was being had before a department and agency of the United States, namely, the SEC, by providing and causing to be provided false and misleading information and documents to the SEC concerning **TEO's** purchases of Musicland stock on or about November 13, 2000 and on or about December 6, 2000.

In violation of Title 18, United States Code, Section 1505.

COUNTS 43 and 44

(Securities Fraud: Insider Trading in C-Cube Stock)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 of this Indictment are hereby realleged and incorporated as though fully set forth herein.

Background

2. Cirrus Logic, Inc. (“Cirrus”) was a corporation organized under the laws of the State of Delaware with its headquarters in Austin, Texas. Cirrus was a supplier of analog and DSP chip solutions for consumer electronics products. Cirrus was a publicly traded company whose common stock traded on the NASDAQ.

3. From on or about July 21, 1998 through on or about April 10, 2001, **TEO** was a director of Cirrus and a member of the audit committee of Cirrus’ Board of Directors. **TEO** was also Cirrus’ largest shareholder.

4. C-Cube Microsystems, Inc. (“C-Cube”) was a corporation organized under the laws of the State of Delaware with its headquarters in Milpitas, California. C-Cube engaged in the business of providing digital media processing technology and networked consumer products. Its common stock was registered with the SEC pursuant to Section 12(g) of the Exchange Act and was publicly traded on the NASDAQ.

5. On or about February 14, 2001, C-Cube management met with investment bankers to discuss strategic alternatives for operation of the company, including whether C-Cube should

consider offering itself for sale to other companies. Shortly thereafter, C-Cube's President and Cirrus' President spoke by telephone regarding the possibility of Cirrus purchasing C-Cube.

TEO's Acquisition of Inside Information

6. On or about February 21, 2001, **TEO** attended a Cirrus Board of Directors meeting where Cirrus' Vice President of Operations made a presentation regarding the benefits of a potential acquisition of one of three audio-video chip manufacturers: C-Cube, Oak Technology ("Oak") and ESS Technology ("ESS"). The discussion and presentation materials included information that Cirrus' investment bankers had compiled regarding potential share prices that Cirrus might consider paying for C-Cube's stock, estimated results if the two companies were combined, and other analyses demonstrating the strategic advantages of a Cirrus purchasing C-Cube. The Board of Director's presentation package entitled "Acquisition Opportunity," which was marked "Cirrus Logic Confidential," was distributed to all those in attendance at the meeting, including **TEO**.

7. On or about March 2, 2001, **TEO** attended a special telephonic Cirrus Board of Directors meeting from his office in New Jersey. During the meeting, Cirrus' CFO and President presented financial information concerning C-Cube, including information regarding valuations for C-Cube under various scenarios. The Board of Directors unanimously adopted a resolution authorizing and directing the company's executive officers "to proceed with negotiations with Oak and C-Cube in an effort to determine which company could provide the best overall synergistic fit and acquisition terms to [Cirrus]." During the meeting, Cirrus' President presented C-Cube to the Board of Directors as the preferred acquisition target.

8. The information concerning Cirrus' interest in an acquisition of C-Cube was

confidential, non-public, and material information.

9. On or about March 6, 2001, Cirrus submitted a formal indication of interest to C-Cube.

10. On or about March 16, 2001, C-Cube executed confidentiality agreements with Cirrus and another company, LSI Logic, Inc. ("LSI"), concerning possible business combinations.

TEO's Illicit Trading and Tipping

11. On or about March 7, 2001, while in possession of material, non-public information concerning Cirrus's desire to purchase C-Cube, **TEO** directed his broker at Merrill, Lynch, Pierce, Fenner, and Smith ("Merrill Lynch") to purchase approximately 70,000 shares of C-Cube common stock for **TEO**'s account. Due to market conditions, only approximately 30,000 shares were purchased, at approximately \$8.94 per share, in **TEO**'s account.

12. On or about March 8, 2001, while in possession of material, non-public information concerning Cirrus's desire to purchase C-Cube, **TEO** directed his broker at Merrill Lynch to purchase an additional 70,000 shares of C-Cube common stock for **TEO**'s account. Due to market conditions, only approximately 5,000 shares were purchased, at approximately \$9.06 per share, in **TEO**'s account.

13. In addition to his own illicit trading, **TEO**, after the Cirrus Board of Directors' meeting on or about February 21, 2001, and while in possession of material, non-public information regarding a potential acquisition by Cirrus of C-Cube, Oak, and ESS, disclosed the information to **MITCHELL SACKS**. At the time he made the disclosure, **TEO** and **MITCHELL SACKS** were forming a hedge fund together and working in the same office space

in New Jersey.

The Public Announcement

14. On or about March 26, 2001, LSI announced that it was acquiring C-Cube in an \$878 million transaction in which C-Cube shareholders would receive 0.79 shares of LSI stock in exchange for each share of C-Cube common stock (“March 26th Announcement”). That day, C-Cube’s stock closed at approximately \$13.75, an approximately 56 % increase over the prior day.

15. On or about March 28, 2001, after the March 26th Announcement, **TEO** sold all 35,000 shares of C-Cube common stock in **TEO**’s Merrill Lynch account, thereby reaping an illicit profit of approximately \$180,012.

16. On or about the following dates, in the District of New Jersey and elsewhere, defendant

ALFRED S. TEO, SR.,

knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of C-Cube stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud

and deceit upon C-Cube and its shareholders, and other members of the investing public, in connection with the following purchases of C-Cube securities:

<u>COUNT</u>	<u>DATE</u>	<u>ACT</u>
43	March 7, 2001	Purchase of 30,000 shares of C-Cube common stock for TEO's account at Merrill Lynch
44	March 8, 2001	Purchase of 5,000 shares of C-Cube common stock for TEO's account at Merrill Lynch

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5.

COUNT 45

(Securities Fraud: TEO Tipped MITCHELL SACKS regarding C-Cube)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1 and Paragraphs 2 through 15 of Counts 43 - 44 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. Defendant **MITCHELL SACKS** was a resident of New Jersey. In or about January 2001, **TEO** and **MITCHELL SACKS** began forming a hedge fund, which they operated together from the offices of Alpha Industries in New Jersey until the hedge fund's dissolution in or about July 2002. From in or about January 2001 through in or about July 2002, **TEO** and **MITCHELL SACKS** worked on the same floor of the same building in New Jersey and shared a receptionist and telephone line.

3. After the Cirrus Board of Directors' meeting on or about February 21, 2001, and while in possession of material, non-public information regarding a potential acquisition by Cirrus of C-Cube, Oak, and ESS, **TEO** disclosed the information to **MITCHELL SACKS**.

4. Thereafter, on or about March 2, 2001, **MITCHELL SACKS** purchased approximately 20,000 shares of C-Cube common stock at an average price of approximately \$8.25 per share in the account of P.S., his father. At the same time, **MITCHELL SACKS** also purchased approximately 20,000 shares each of Oak and ESS in the same account.

5. On or about March 29, 2001, after the March 26th Announcement, **MITCHELL SACKS** sold the approximately 20,000 shares of C-Cube common stock at a price of approximately \$14.03 per share, thereby reaping an illicit profit of approximately \$115,155.

6. On or about March 2, 2001, in the District of New Jersey and elsewhere, defendant **ALFRED S. TEO, SR.**, knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did himself and did aid, abet, counsel, induce, and cause others to, use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of C-Cube stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon C-Cube and its shareholders, and other members of the investing public, in connection with **MITCHELL SACKS'** purchase of approximately 20,000 shares of C-Cube stock on or about March 2, 2001.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2.

COUNT 46

(Securities Fraud: MITCHELL SACKS's Insider Trading in C-Cube Stock)

1. The allegations set forth in Paragraphs 1 through 7 and 9 through 22 of Count 1; Paragraphs 2 through 15 of Counts 43 and 44; and Paragraphs 2 through 5 of Count 45 of this Indictment are hereby realleged and incorporated as though set forth in full herein.

2. On or about March 2, 2001, in the District of New Jersey and elsewhere, defendant

MITCHELL LESTER SACKS,

knowingly and willfully, directly and indirectly, by the use of means and instrumentalities of interstate commerce, the mails and the facilities of national securities exchanges, did himself and did aid, abet, counsel, induce, and cause others to, use and employ manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 in connection with the purchase and sale of C-Cube stock, by (i) employing devices, schemes, and artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon C-Cube and its shareholders, and other members of the investing public, in connection with **MITCHELL SACKS'** purchase of approximately 20,000 shares of C-Cube stock on or about March 2, 2001.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5, and Title 18, United States Code, Section 2.

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY